

EXTENSIONS OF REMARKS

IN RECOGNITION OF ACHIEVEMENTS OF MADISON COUNTY HISTORICAL SOCIETY IN EDWARDSVILLE, IL

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the achievements of the Madison County Historical Society in the Edwardsville, Illinois area.

Edward Coles was the second Governor of the State of Illinois. Born in central Virginia in 1786 to a wealthy father who grew tobacco and was a slave owner, Coles would later in life decide that owning slaves was not the right thing to do. It is thought that this idea was instilled in him when he studied at William and Mary College in Williamsburg, VA. He did not support the philosophy that people could own other people when a professor raised it at the school.

Coles father died in 1807 leaving Edward a 782-acre farm and 23 slaves. He decided that freeing the slaves would be the right thing to do, but that would have been impossible because of the strict provisions in Virginia. The law stated that any freed slave must leave the State within a year of emancipation, which insured the failure of the slaves as free citizens. On top of that the other slave owners in the area would have surely hung Coles for his betrayal of their highly prized trade.

In 1810 Edward became Personal Secretary for President Madison in Washington DC. He was very successful in the world of politics, but still wanted to free the slaves under his control. After President Madison's first term Coles quit the White House and went west looking for a place to free his slaves. He came back from his excursion with a plan and an idea.

After a brief stint as a diplomat to Russia, Coles bought 3,500 acres in Illinois and accepted an appointment as land Registrar in Edwardsville, Illinois. He packed up his belongings and 22 slaves and headed towards Edwardsville. Coles waited until he was West of the Ohio River before he let anyone know his plan to free the slaves that worked for him. After he told them that they were free to go 5 went to Kentucky, 7 to Missouri, and 10 followed Coles the rest of the way. It is said that Edward provided the slaves that followed him with land of their own. He also provided all of his former slaves with money and supplies, as they needed them.

Later in life Coles was Governor of Illinois for one term. He ran for Congress in 1832 and lost, which is when he came to the conclusion that he wanted to move back to the East Coast. He moved to Philadelphia where he married a lady named Sally Logan Roberts, and had three children with her.

Some people do not only look for reward in the form of offices or titles, but in gratification for doing the right thing. Mr. Edward Coles

was one of these people, and without his support and belief in the abolitionist movement many more people would have been sold as property and treated as less than human. Mr. Coles was a man who did the right thing when the challenge presented itself.

I want to commend the Madison County Historical Society for their efforts to keep the Coles Legacy of freedom and decency alive.

THE INTRODUCTION OF THE MILITARY TRIBUNALS ACT OF 2002

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 2002

Mr. SCHIFF. Mr. Speaker:

SEPARATION OF POWERS

Our great nation was founded on the basic principles of liberty and justice for all. And one of the founding principles of our government is a separation of powers, and a system of checks and balances.

We set up our government this way for a reason. The delegates to the Constitutional Convention faced a difficult challenge—to create a strong, cohesive central government, while also ensuring that no individual or small group in the government would become too powerful. They formed a government with three separate branches, each with its own distinct powers.

Without this separation of powers, any one branch of government could have the power to establish a tribunal, decide what charges would be covered and what due process would be afforded, and also serve as judge and jury. The intent of the framers was to avoid these kinds of imbalances of power—to provide checks and balances.

That is why Congress must have a role in setting up military tribunals.

THE ROLE OF MILITARY TRIBUNALS

As the United States and its allies continue to engage in armed conflict with al Qaeda and the Taliban, military tribunals provide an appropriate forum to adjudicate the international law of armed conflict. While it may sound incongruous to have a justice system to deal with crimes of war, this process ensures adherence to certain international standards of wartime conduct. In order to garner the support of the community of nations, military trials must provide basic procedural guarantees of fairness, consistent with the international law of armed conflict and the International Covenant on Civil and Political Rights.

CONSTITUTIONAL JUSTIFICATION

Congressional authorization is necessary for the establishment of extraordinary tribunals to adjudicate and punish offenses arising from the September 11, 2001 attacks, or future al Qaeda terrorist attacks against the United States, and to provide a clear and unambiguous legal foundation for such trials.

This power is granted by the U.S. Constitution, which gives Congress the authority to

constitute tribunals, define and punish offenses against the Law of Nations, and make rules concerning captures.

While Congress has authorized the President to use all necessary and appropriate force against those nations, organizations, or persons that he determines to have planned, authorized, committed, or aided the terrorist attacks or harbored such organizations or persons, Congress has yet to expressly authorize the use of military tribunals.

CRAFTING THE BILL

In November, 2001, the President issued a military order which said non-U.S. citizens arrested at home or abroad could be tried by military tribunals. In March, 2002, the Department of Defense announced rules for military trials for accused terrorists.

These rules made no provision for the writ of habeas corpus, or an adequate appeals process. In addition, there was no accounting of persons who were being detained.

Believing that Congress should play a critical role in authorizing military tribunals, I began discussing this issue with legal organizations, military law experts, and legal scholars. The result of these discussions is the Military Tribunals Act of 2002, which I am introducing today.

WHO IS COVERED

My bill will give the President the authority to carry out military tribunals to try individuals who are members of al Qaeda or members of other terrorist organizations knowingly cooperating with or aiding or abetting persons who attack the United States.

UNLAWFUL COMBATANTS

The Geneva Conventions limit the ways regular soldiers who surrender or are captured may be treated, but there is a very clear distinction made between lawful enemy combatants (a member of a standing/recognized army), who would not be subject to a tribunal, and unlawful enemy combatants (civilians who take up arms) who would.

Currently, there are more than 500 persons who are being detained at Guantanamo Bay. They have been classified by the Department of Defense as unlawful enemy combatants, and each one could potentially be subject to a military tribunal. But without legislative backing, any military tribunal adjudication of guilt may later be challenged on the basis that the tribunals were not authorized by Congress. Congressional action would make it abundantly clear that military tribunals are an appropriate venue for trying unlawful enemy combatants. Spelling out the requirements for a military tribunal would ensure that sentences, when they are handed down, could be defended from judicial invalidation.

DUE PROCESS

My bill would ensure that the basic tenets of due process are adhered to by a military tribunal. The tribunal would be independent and impartial. The accused would be presumed innocent until proven guilty, and would only be found guilty if there was proof beyond a reasonable doubt. The accused would be promptly notified of alleged offenses. The proceedings would be made available to relevant

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